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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/998,859      | 11/15/2001  | Craig Nemecek        | CYPR-CD01209M       | 6931             |

7590 05/28/2003  
WAGNER, MURABITO & HAO LLP  
Third Floor  
Two North Market Street  
San Jose, CA 95113

EXAMINER

THOMPSON, ANNETTE M

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2825

DATE MAILED: 05/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/998,859

Applicant(s)

NEMECEK, CRAIG

Examiner

A. M. Thompson

Art Unit

2825

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 November 2001 thru 06 March 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☒ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This application, 09/998,859, with Preliminary Amendment filed 6 March 2003, has been examined. The specification is amended. Claims 1-26 are pending.

#### ***Information Disclosure Statement***

1. Applicant's Preliminary Amendment has attached supporting documents which should probably be submitted on an information disclosure statement filed that complies with the requirements of 37 CFR 1.98. The pertinent supporting documents have been considered by the Examiner and recorded on the PTO-892, attached.

#### ***Drawings***

2. The drawings are objected to: In Figure 3, #301, replace "micro" with micro controller. Additionally, in Figure 2, Applicant should enlarge the drawing boxes and insert the names corresponding to the instance numbers. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because it is greater than 150 words.

Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities: At page 6, line 12, the phrase after the period needs revision, e.g. "When a "lock step error" is issued,. . .". At page 14, line 3, the FPGA is incorrectly identified as instance number 220.

Appropriate correction is required.

#### ***Claim Objections***

6. **Claims 9-11, 13, 25, and 26** are objected to because of the following informalities: Pursuant to **claim 9**, "detect" should singular, i.e. *detects*. Pursuant to **claims 10, 11**, at line 2, change "may receive" to *receives* for definiteness. Pursuant to **claims 11, 13, 25, and 26**, delete the phrase "intended to be". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Rejection of claims 1-26**

8. Claims 1-26 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. Applicant's acknowledged prior art in the specification discloses that "A commercial ICE system utilizing the present invention is available from Cypress MicroSystems, Inc." for a series of micro controllers. Further, other prior art of record, specifically, Cypress Microsystems Unveils Programmable System-On-A-Chip for Embedded Internet, Communications and Consumer Systems, discloses that the PSOC devices were introduced into the marketplace on November 13, 2000. Applicant's filing date of November 15, 2001 triggers the public use/on sale bar because it is greater than one (1) year subsequent to the November 13, 2000 product rollout.

9. An issue of public use or on sale activity has been raised in this application. In order for the Examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: (1) Applicant must submit a copy of version of the PSOC Designer: Integrated Development Environment User Guide, Version 1.11 and identify the revision date of this version.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please reference the attached PTO-892 for a complete listing.

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to A.M. Thompson whose telephone number is (703) 305-7441. The Examiner can usually be reached Monday thru Friday from 8:00 a.m. to 5:00 p.m.. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Matthew S. Smith, can be reached on (703) 308-1323.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956 or the Customer Service Center whose telephone number is (703)306-3329.

12. Responses to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9318, (for **OFFICIAL** communications intended for entry)  
(703)872-9319, (for Official **AFTER-FINAL** communications)

Hand-delivered responses should be brought to Crystal Plaza 4, 2021 South Clark Place, Arlington, VA., Fourth Floor (Receptionist).



A. M. THOMPSON  
Patent Examiner

27 May 2003